

Local Government Employee-Management Relations Board E-Newsletter

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Members of the Board

Philip E. Larson, Chairman

Brent C. Eckersley, Esq., Vice-Chairman

Sandra Masters, Board Member

Staff

Bruce K. Snyder, Commissioner

Marisu Romualdez Abellar,
Board Secretary

On the Horizon

The next meeting of the Board will be a teleconference to be held on Wednesday, July 29th. The agenda for this meeting has already been issued. At this meeting it is expected that the Board will set a hearing date in the near future for 2015-011, SEIU, Local 1107 v. Clark County. This case concerns the interpretation of provisions of SB241, including interpretation of its evergreen clause provisions. The Board is also expected to decide a case heard in May, A1-046068, Elko County Employees Association v. Elko County. In this case two women allege they were discriminated against in the assignment of overtime. The County claims it assigned overtime to employees who were at the lower end of the pay scale to save money.

The Board will next meet August 18-20 in Las Vegas. At that time it will hear 2015-006, Clark County School District v. Clark County Education Association and Teachers Health Trust. In this case the school district alleges that the union has bargained in bad faith by unilaterally making a change to its union administered, but collectively bargained, health insurance for its teachers. The school district also claims that the Respondents have failed to provide requested information, in violation of NRS 288. At the July teleconference the Board is to rule on a motion made by the Teachers Health Trust that it is not a proper party to the action since it is not an employee organization. The school district claims it is an alter ego of the union itself.

New Law Improving Transparency

NRS 288.153 already required a local government to hold a public hearing before voting on any new, extended or modified collective bargaining agreement. In this past session, SB158, which took effect on July 1st, amended NRS 288.153 by now requiring a local government to post on its website (or with the clerk if the local government does not have a website), no less than three days before the public hearing the following documents:

1. The proposed agreement and any exhibits or other attachments to the proposed agreement;
2. If the proposed agreement is a modification of a previous agreement, a document showing any language added to or deleted therefrom; and
3. Any supporting material prepared for the governing body and relating to the fiscal impact of the agreement.

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Update on E-Filing and Other Regulations

As you may recall, last February the EMRB put into place a temporary regulation to allow for the e-filing of documents. This same regulation also allows the Commissioner to approve stipulations to extend time to file certain documents, as well as clarifying the filing requirements for the annual reports filed by local governments and employee organizations each November. Recently the EMRB received a draft of permanent regulation R010-15 from the Legislative Counsel Bureau. In addition to what the EMRB requested to be included in the permanent regulation, the LCB has also recommended the repeal of NAC 288.338. This is a regulation that had the parties to a case drafting the findings of fact and conclusions of law. This is now done by the Deputy Attorney General assigned to the agency.

The EMRB has scheduled a workshop on the above regulation, to be held at the EMRB office in Las Vegas on Monday, August 10, 2015, at 2:00 p.m. The public hearing has also been scheduled, which will take place on Wednesday, August 19, 2015, at 8:00 a.m. We also welcome any written comments you might have on these regulations, including any comments on how the electronic filing option has worked so far.

Did you know

that each July the three Board members are required by law to elect a Chairman and Vice-Chairman? This year the Board kept the officers the same for the second consecutive year by re-electing Philip E. Larson as Chairman and Brent C. Eckersley, Esq., as Vice-Chairman. Sandra Masters continues to serve as the third Board member. Did you also know that the agency is run by only two staff members? The daily operations of the EMRB are taken care of by the Commissioner and the Board Secretary.

Recent Court Decisions

A case does not always end once the Board renders its decision. State law provides a mechanism for a party to "appeal" a Board decision. This initial appeal is called a petition for judicial review, which is filed in a District Court. Once a District Court renders its decision a given case can be further appealed to the Nevada Supreme Court. From time-to-time we will be reporting on important decisions rendered by the Courts on cases appealed from the EMRB. Currently the agency has about ten cases in various Nevada courts.

Recently various Nevada courts rendered decisions in two cases, which are highlighted here. The first involves the Clark County Deputy Marshals Association and Clark County. In that case the Board ruled that the Deputy Marshals were not local government employees, but rather court employees, and as such do not have collective bargaining rights under NRS 288. This ruling was consistent with prior Board decisions that have held that court employees are not local government employees. In a recent decision the First Judicial District Court affirmed the decision of the EMRB.

The other case is between an employee named Dixon and the City of North Las Vegas. This action in court was not on a petition for judicial review, but rather was an independent action filed between the parties (although the same parties do have a separate case before the EMRB). In the court case the EMRB filed an amicus brief, otherwise known as a "friend of the court" brief. Without taking a position on the underlying case itself, the EMRB was concerned that a court might construe the EMRB as having jurisdiction over breach of contract claims in addition to its unfair labor practice claims. If so construed by a court, the workload of the EMRB could have potentially skyrocketed, as technically every grievance is alleging a violation or breach of a collective bargaining agreement. In the end the Nevada Supreme Court ruled in favor of the City of North Las Vegas without having to reach the concern of the EMRB. Mr. Dixon has since asked the Nevada Supreme Court for a rehearing on the matter.

In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. Below is a description of the current queue:

The Board will hear one case in Las Vegas in August: 2015-006, Clark County School District v. Clark County Education Association and Teachers Health Trust.

The Board has two cases scheduled for September: A1-046119, Shannon D'Ambrosio v. Las Vegas Metropolitan Police Department and A1-045847 through A1-056864, Deborah Boland et al. v. SEIU, Local 1107. The latter case is a continued hearing from before.

The Board has also scheduled two cases for October: A1-046113, Police Officers Association of the Clark County School District v. Clark County School District (a continuation of the hearing) and A1-046128, City of Las Vegas v. Las Vegas Peace Officers Association.

The Board has scheduled A1-046133, SEIU, Local 1107 v. Southern Nevada Regional Housing Authority for November and A1-046120, IAFF, Local 1908 v. Clark County for December.

The following cases are waiting for the Board to deliberate and decide on the status of the case, including, but not limited to, dismissal of the case or the granting of a hearing on the complaint. Please note that the order listed below is not necessarily the order in which the cases will be heard:

In Las Vegas:

2015-003, John Ducas v. Las Vegas Metropolitan Police Department

2015-001, Bramby Tollen v. Clark County Association of School Administrators

In addition to the above cases the Board is expected to set a hearing date on July 29th for the case involving SEIU, Local 1107 and Clark County over the interpretation of various provisions of SB241.

Payment on Annual Invoices Due July 31st

This is a message to all our local governments. The EMRB mailed invoices to 170 local governments on June 19th. Payments are due no later than Friday, July 31st. We wish to thank the three-fourths of all the local governments who have already paid their annual assessment.

Election News

The EMRB is also gearing up for a second discretionary runoff election between the Education Support Employees Association and Teamsters Local 14, ballots will be mailed on November 2nd, with the counting of the ballots occurring in early December. This election is pursuant to an order of the Board issued earlier this year.

"About the EMRB"

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.